

Assembly Bill No. 2600**CHAPTER 726**

An act to add Division 23.3 (commencing with Section 33300) to the Public Resources Code, relating to the Sierra Nevada Conservancy.

[Approved by Governor September 23, 2004. Filed with Secretary of State September 23, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2600, Leslie. Sierra Nevada Conservancy. Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would establish the Sierra Nevada Conservancy, to undertake various activities related to the Sierra Nevada Region, as defined, and would prescribe the management, powers, and duties of the conservancy. The bill would create the Sierra Nevada Conservancy Fund in the State Treasury. Moneys in the fund would be available, upon appropriation, for the purposes of the conservancy.

The people of the State of California do enact as follows:

SECTION 1. Division 23.3 (commencing with Section 33300) is added to the Public Resources Code, to read:

DIVISION 23.3. SIERRA NEVADA CONSERVANCY**CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

33300. This division shall be known, and may be cited, as the Laird-Leslie Sierra Nevada Conservancy Act.

33301. The Legislature finds and declares all of the following:

- (a) The Sierra Nevada Region is a globally significant area, including many national and state parks, the highest peaks in the 48 contiguous states, and large, pristine areas that are open for public use.
- (b) The Sierra Nevada Region is an important part of the state's economy, providing substantial agricultural products, timber resources, ranching, mining, tourism, and recreation.
- (c) The Sierra Nevada Region provides 65 percent of California's developed water supply and nearly all of the water supply for western Nevada. As California's principal watershed, the region is the critical source of water for urban and rural parts of northern and southern California.
- (d) In cooperation with local governments, private business, nonprofit organizations, and the public, a Sierra Nevada Conservancy can help do all of the following:
 - (1) Provide increased opportunities for tourism and recreation.

- (2) Protect, conserve, and restore the region's physical, cultural, archaeological, historical, and living resources.
- (3) Aid in the preservation of working landscapes.
- (4) Reduce the risk of natural disasters, such as wildfires.
- (5) Protect and improve water and air quality.
- (6) Assist the regional economy through the operation of the conservancy's program.
- (7) Identify the highest priority projects and initiatives for which funding is needed.
- (8) Undertake efforts to enhance public use and enjoyment of lands owned by the public.
- (9) Support efforts that advance both environmental preservation and the economic well-being of Sierra residents in a complementary manner.

33302. For the purposes of this division, the following terms have the following meanings:

(a) "Board" means the Governing Board of the Sierra Nevada Conservancy.

(b) "Conservancy" means the Sierra Nevada Conservancy.

(c) "Fund" means the Sierra Nevada Conservancy Fund created pursuant to Section 33355.

(d) "Local public agency" means a city, county, district, or joint powers authority.

(e) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of Title 26 of the United States Code, and that has among its principal charitable purposes preservation of land for scientific, educational, recreational, scenic, or open-space opportunities; or, protection of the natural environment, preservation or enhancement of wildlife; or, preservation of cultural and historical resources; or, efforts to provide for the enjoyment of public lands.

(f) "Region" or "Sierra Nevada Region" means the area lying within the Counties of Alpine, Amador, Butte, Calaveras, El Dorado, Fresno, Inyo, Kern, Lassen, Madera, Mariposa, Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Tulare, Tuolumne, and Yuba, described as the area bounded as follows:

On the east by the eastern boundary of the State of California; the crest of the White/Inyo ranges; and State Routes 395 and 14 south of Olancha; on the south by State Route 58, Tehachapi Creek, and Caliente Creek;

on the west by the line of 1,250 feet above sea level from Caliente Creek to the Kern/Tulare County line; the lower level of the western slope's blue oak woodland, from the Kern/Tulare County line to Big Bend above Red

Bluff; the Sacramento River from Big Bend north to Cow Creek below Redding; Cow Creek, Little Cow Creek, Dry Creek, and Dry Creek Road, between the Sacramento River and Lake Shasta; the Pit River Arm of Lake Shasta; the northerly boundary of the Pit River watershed; the southerly and easterly boundaries of Siskiyou County; and within Modoc County, the easterly boundary of the Klamath River watershed; and

on the north by the northern boundary of the State of California; excluding both of the following:

- (1) The Lake Tahoe Region, as described in Section 66905.5 of the Government Code, where it is defined as “region.”
- (2) The San Joaquin River Parkway, as described in Section 32510.

(g) “Subregions” means the six subregions in which the Sierra Nevada Region is located, described as follows:

- (1) The north Sierra subregion, comprising the Counties of Lassen, Modoc, and Shasta.
- (2) The north central Sierra subregion, comprising the Counties of Butte, Plumas, Sierra, and Tehama.
- (3) The central Sierra subregion, comprising the Counties of El Dorado, Nevada, Placer, and Yuba.
- (4) The south central Sierra subregion, comprising the Counties of Amador, Calaveras, Mariposa, and Tuolumne.
- (5) The east Sierra subregion, comprising the Counties of Alpine, Inyo, and Mono.
- (6) The south Sierra subregion, comprising the Counties of Fresno, Kern, Madera, and Tulare.

(h) “Tribal organization” means an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and is identified on pages 52829 to 52835, inclusive, of Number 250 of Volume 53 (December 29, 1988) of the Federal Register, as that list may be updated or amended from time to time.

CHAPTER 2. SIERRA NEVADA CONSERVANCY

33320. There is in the Resources Agency the Sierra Nevada Conservancy, which is created as a state agency to do all of the following, working in collaboration and cooperation with local governments and interested parties:

- (a) Provide increased opportunities for tourism and recreation.
- (b) Protect, conserve, and restore the region’s physical, cultural, archaeological, historical, and living resources.
- (c) Aid in the preservation of working landscapes.

- (d) Reduce the risk of natural disasters, such as wildfires.
- (e) Protect and improve water and air quality.
- (f) Assist the regional economy through the operation of the conservancy's program.
- (g) Identify the highest priority projects and initiatives for which funding is needed.
- (h) Undertake efforts to enhance public use and enjoyment of lands owned by the public.
- (i) Support efforts that advance both environmental preservation and the economic well-being of Sierra residents in a complementary manner.

33321.

(a) The board shall consist of 13 voting members and three nonvoting liaison advisers, appointed or designated as follows:

- (1) The 13 voting members of the board shall consist of all of the following:
 - (A) The Secretary of the Resources Agency, or his or her designee.
 - (B) The Director of Finance, or his or her designee.
 - (C) Three public members appointed by the Governor, who are not elected officials, to represent statewide interests.
 - (D) One public member appointed by the Speaker of the Assembly, who is not an elected official, to represent statewide interests.
 - (E) One public member appointed by the Senate Committee on Rules, who is not an elected official, to represent statewide interests.
 - (F) One member for each of the six subregions who shall be a member of the board of supervisors of a county located within that subregion, and whose supervisorial district shall be at least partially contained within the Sierra Nevada Region. Each member shall be selected by the counties within that subregion, according to the following procedure:
 - (i) Each county board of supervisors within a subregion shall select a member of their board to determine, with the selected members of the other counties in the subregion, which member of a board of supervisors within the subregion shall be appointed as a member of the conservancy board. An alternate may be appointed. The appointed member and any alternate shall have at least part of his or her supervisorial district within the subregion.
 - (ii) The initial appointment of a member for each subregion shall be made no later than 60 days after the effective date of this division. A subsequent appointment to a regular term on the board shall be made before the date specified in Section 33322 for the commencement of that term. A vacancy occurring before the end of a term shall be filled for the remainder of the term within 60 days of the vacancy.
 - (iii) If the boards of supervisors of the subregion do not appoint a member to the board within the timeframe specified in clause (ii), the Governor shall appoint one of the supervisors selected in clause (i) to serve as the board member for the subregion.

(2) The three nonvoting liaison advisers who are serving in an advisory, nonvoting capacity shall consist of all of the following:

(A) One representative of the National Park Service, designated by the United States Secretary of the Interior.

(B) One representative of the United States Forest Service, designated by the United States Secretary of Agriculture.

(C) One representative of the United States Bureau of Land Management, designated by the United States Secretary of the Interior.

(b) Appointing powers shall seek to include individuals from a breadth of backgrounds.

33322. Members and alternates, if any, shall serve terms specified as follows:

(a) The members appointed pursuant to subparagraphs (C) to (E), inclusive, of subdivision (a) of Section 33321 shall serve at the pleasure of the appointing power.

(b) The members and alternates, if any, appointed under subparagraph (F) of paragraph (1) of subdivision (a) of Section 33321 shall serve, as follows:

(1) Members and alternates in the north Sierra subregion, the central Sierra subregion, and the east Sierra subregion shall have terms beginning on January 1 in an odd-numbered year and ending on December 31 of the following even-numbered year. All terms shall be for two years.

(2) Members and alternates in the north central Sierra subregion, the south central Sierra subregion, and the south Sierra subregion shall have terms beginning on January 1 in an even-numbered year and ending on December 31 in the following odd-numbered year. Members and alternates who are initially appointed to the board shall serve for a one-year term for the first year. Subsequent terms shall be for two years.

(c) No member of the board, whose appointment to the board was contingent upon meeting a condition of eligibility under this division, shall serve beyond the time when the member ceases to meet that condition.

33323.

(a) The voting members appointed or designated under paragraph (1) of subdivision (a) of Section 33321 who are not state employees shall be compensated for attending meetings of the conservancy at the rate of one hundred dollars (\$100) per scheduled meeting day.

(b) All members of the board shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in attending meetings of the conservancy and carrying out the duties of their office.

33324. Annually, the voting members of the board shall elect from among the voting members a chairperson and vice-chairperson, and other officers as necessary. If the office of the chairperson or vice-chairperson becomes vacant, a new chairperson or vice-

chairperson shall be elected by the voting members of the board to serve for the remainder of the term.

33325.

(a) Seven members of the voting members shall constitute a quorum for the transaction of the business of the conservancy. The board shall not transact the business of the conservancy if a quorum is not present at the time a vote is taken. A decision of the board requires an affirmative vote of seven of the voting members, and the vote is binding with respect to all matters acted on by the conservancy.

(b) The board shall adopt rules, regulations, and procedures for the conduct of business by the conservancy.

(c) The voting members of the board appointed or designated pursuant to paragraph (1) of subdivision (a) of Section 33321 and the nonvoting advisers selected pursuant to paragraph (2) of subdivision (a) of Section 33321, shall have the right to attend all meetings of the board, including closed sessions.

33326. The board may establish advisory boards or committees, hold community meetings, and engage in public outreach using advanced forms of technology, in order to facilitate the decision making process. Members of advisory boards or committees may be reimbursed for the actual and necessary expenses, including travel expenses, that they incur in attending regular meetings of the advisory board or committee of which they are a member.

33327. The board shall establish and maintain a headquarters office within the region. The conservancy may rent or own real and personal property and equipment pursuant to applicable statutes and regulations.

33328. The board shall determine the qualifications of, and shall appoint, an executive officer of the conservancy, who shall be exempt from civil service. The board shall employ other staff as necessary to execute the powers and functions provided for under this division.

33329. The board may enter into contracts with private entities and public agencies to procure consulting and other services necessary to achieve the purposes of this division.

33330. The conservancy's expenses for support and administration may be paid from the conservancy's operating budget and any other funding sources available to the conservancy.

33331. The board shall conduct business in accordance with the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

33332. The board shall hold its regular meetings within, or near, the region.

33333. On or after January 1, 2006, the board shall post agendas for each board meeting on the Internet.

CHAPTER 3. POWERS, DUTIES, AND LIMITATIONS

33340. The conservancy's jurisdiction is limited to the Sierra Nevada Region.

33341. The conservancy shall carry out projects and activities to further the purposes of this division throughout the region. The board shall make every effort to ensure that, over time, conservancy funding and other efforts are spread equitably across each of the various sub-regions and among the stated goal areas, with adequate allowance for the variability of costs associated with individual regions and types of projects.

33342. In carrying out this division, the conservancy shall cooperate with and consult with the city or county where a grant is proposed or an interest in real property is proposed to be acquired; and shall, as necessary or appropriate, coordinate its efforts with other state agencies, in cooperation with the Secretary of the Resources Agency. The conservancy shall, as necessary and appropriate, cooperate and consult with a public water system that owns or operates facilities, including lands appurtenant thereto, where a grant is proposed or an interest in land is proposed to be acquired.

33343.

(a) The conservancy may make grants or loans to public agencies, nonprofit organizations, and tribal organizations in order to carry out the purposes of this division, including grants or loans provided to acquire an interest in real property, including a fee interest in that property. Grant or loan funds shall be disbursed to a recipient entity only after the entity has entered into an agreement with the conservancy, on the terms and conditions specified by the conservancy. After approving a grant, the conservancy may assist the grantee in carrying out the purposes of the grant.

(b) When awarding grants or making loans pursuant to this division, the conservancy may require repayment of those funds on the terms and conditions it deems appropriate. Proceeds from the repayment or reimbursement of amounts granted or loaned by the conservancy shall be deposited in the fund.

(c) An entity applying for a grant from the conservancy to acquire an interest in real property shall specify all of the following in the grant application:

- (1) The intended use of the property.
- (2) The manner in which the land will be managed.
- (3) How the cost of ongoing management will be funded.

33344. In the case of a grant of funds to a nonprofit organization or tribal organization to acquire an interest in real property, including, but not limited to, a fee interest, the agreement between the conservancy and the recipient nonprofit organization shall require all of the following:

- (a) The purchase price of an interest in real property acquired by the nonprofit organization shall not exceed fair market value as established by an appraisal approved by the conservancy.
- (b) The terms under which the interest in real property is acquired shall be subject to the conservancy's approval.
- (c) An interest in real property to be acquired under the grant shall not be used as security for a debt unless the conservancy approves the transaction.
- (d) The transfer of an interest in the real property shall be subject to approval of the conservancy, and a new agreement sufficient to protect the public interest shall be entered into between the conservancy and the transferee.
- (e) A deed or instrument by which the nonprofit organization acquires an interest in real property under the grant shall include a power of termination on the part of the state, subject to the requirements of Chapter 5 (commencing with Section 885.010) of Title 5 of Part 2 of Division 2 of the Civil Code. The deed or instrument shall provide that the state may exercise the power of termination by notice in the event of the nonprofit organization's violation of the purpose of the grant through breach of a material term or condition thereof, and that, upon recordation of the notice, full title to the interest in real property identified in the notice shall immediately vest in the state, or in another public agency or a nonprofit organization designated by the conservancy to which the state conveys or has conveyed its interest.
- (f) A deed or instrument by which the nonprofit organization acquires an interest in real property under the grant shall provide that the conveyance is subject to a remainder interest vested in the state. If the existence of the nonprofit organization is terminated for any reason, the conservancy may require that the remainder shall become a present interest and that full title to the real property shall vest in the state, or in another public agency or a nonprofit organization designated by the conservancy to which the state conveys or has conveyed its interest.

33345. The conservancy shall adopt guidelines setting priorities and criteria for projects and programs, based upon its assessment of program requirements, institutional capabilities, and funding needs throughout the region, and federal, state, and local plans, including general plans, recreation plans, urban water management plans, and groundwater management plans. As part of the process of developing guidelines for projects and programs, the conservancy shall undertake and facilitate a strategic program planning process involving meetings and workshops within each of the subregions, with the purpose of formulating strategic program objectives and priorities within that subregion. The strategic program shall be updated regularly, at least once every five years.

33346.

(a) The conservancy may expend funds and award grants and loans to facilitate collaborative planning efforts and to develop projects and programs that are designed to further the purposes of this division.

(b) The conservancy may provide and make available technical information, expertise, and other nonfinancial assistance to public agencies, nonprofit organizations, and tribal organizations, to support program and project development and implementation.

(c) The recipient of a grant or loan provided by the conservancy pursuant to this division for the acquisition of real property shall provide for the management of the real property to be acquired as specified in the grant agreement.

33346.5. The conservancy may apply for and receive grants to carry out the purposes of this division.

33347.

(a) The conservancy may acquire from willing sellers or transferors, an interest in any real property, in order to carry out the purposes of this division. However, the conservancy shall not acquire any real property in fee simple.

(b) The acquisition of an interest in real property under this section is not subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), unless the value of the interest exceeds two hundred fifty thousand dollars (\$250,000), as adjusted for annual changes to the Consumer Price Index for the State of California, as calculated by the Department of Finance, per lot or parcel. However, the conservancy may request the Public Works Board to review and approve specific acquisitions.

(c) The conservancy shall not exercise the power of eminent domain. 33348. Notwithstanding Section 11005.2 of the Government Code or any other provision of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer, an interest, option, or contractual right in real property, as well as a vested right severable there from, that has been acquired under this division, to a person or entity, subject to terms and conditions in furtherance of the conservancy's purposes.

33349.

(a) The conservancy shall take whatever actions are reasonably necessary and incidental to the management of lands or interests in lands under its ownership or control, and may initiate, negotiate, and participate in agreements for the management of those lands or interests with public agencies or private individuals or entities.

(b) The conservancy may improve, restore, or enhance lands for the purpose of protecting the natural environment, improving public enjoyment of or public access to public lands, or to otherwise meet the objectives of this division, and may carry out the planning and design of those improvements or other measures.

(c) The conservancy may enter into an agreement with a public agency, nonprofit organization, or private entity, for the construction, management, or maintenance of facilities authorized by the conservancy.

33350. The conservancy shall make an annual report to the Legislature and to the Secretary of the Resources Agency regarding expenditures, land management costs, and administrative costs.

33351. The conservancy may expend funds under this division to conduct research and monitoring in connection with development and implementation of the program administered under this division.

33352. The conservancy may receive gifts, donations, an interest in real property, including an in-fee interest, subventions, grants, rents, royalties, and other assistance and funds from public and private sources. All funds or income received by the conservancy shall be deposited in the fund for expenditure for the purposes of this division.

33353. The conservancy may fix and collect a fee for a direct service it renders, provided the service is rendered at the request of the individual or entity receiving the service. The amount of a fee shall not exceed the conservancy's reasonable costs and expenses of providing the service rendered. All fees received by the conservancy shall be deposited in the fund for expenditure for the purposes of this division.

33354. Proceeds from a lease, rental, sale, exchange, or transfer of an interest or option in real property, and all other income, shall be deposited in the fund for expenditure for the purposes of this division.

33355. The Sierra Nevada Conservancy Fund is hereby created in the State Treasury. Moneys in the fund shall be available, upon appropriation by the Legislature, only for the purposes of this division.

33356. Nothing in this division grants to the conservancy:

(a) Any of the powers of a city or county to regulate land use.

(b) Any powers to regulate any activities on land, except as the owner of an interest in the land, or pursuant to an agreement with, or a license or grant of management authority from, the owner of an interest in the land.

(c) Any powers over water rights held by others.